

ORDINANCE NO. 3223

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
TITLE 12.24 OF THE MUNICIPAL CODE RELATING TO THE
THRESHOLDS FOR THE INSTALLATION OF PUBLIC
IMPROVEMENTS

WHEREAS, it is the intent of the City Council to protect life and property and promote the general welfare as well as enhance and improve the physical environment of the community, sustainably; and

WHEREAS, the City's General Plan Theme 4 is "Improved Mobility", of which Goal 6.1 is "Safe; healthy, walkable and vibrant communities with a balance of jobs and housing" and Goal 6.3 is "a sustainable circulation / mobility system that provides transportation choices and is well integrated with the City's land uses;" and

WHEREAS, one way the City implements the General Plan is with the issuance of building permits and Title 12.24 sets for the requirements for public improvements not associated with a subdivision.

NOW, THEREFORE, the City Council of the City of Chula Vista does hereby ordain as follows:

I. AMENDMENT TO CHULA VISTA MUNICIPAL CODE CHAPTER 12.24

That Chula Vista Municipal Code Chapter 12.24 shall be amended to read as follows:

12.24.010 Purpose and intent of provisions

The City Council finds as follows: (A) that lack of sidewalks within the City often encourages or forces pedestrians to walk in the streets, subjecting them to the hazards posed by vehicular traffic; (B) that during the rainy season, moving, high, and stagnant waters in city streets create additional dangers and inconveniences; (C) that streets and highways of inadequate width and design hinder vehicular movement and increase congestion; (D) that the lack of curbs, storm drain facilities and improved alleys results in poor drainage allowing for the collection of filth and waste matter; (E) the lack of adequate street lighting reduces visibility and allows for and contributes to the criminal infringement upon the rights of persons and property. The City Council, therefore, finds and declares all of the preceding conditions to be dangerous to the health, safety, and welfare of the inhabitants of the city and to the users of its streets and highways.

It is the purpose of the City Council, in adopting the provisions of this chapter, to mitigate these dangers, to the extent reasonably possible, by imposing reasonable requirements of dedication and street improvement upon individuals and corporations engaged in the development and construction of buildings or structures that tend to increase demands upon the existing public rights-of-way, streets, and highways within the city and, thereby, increase the danger to the public health and safety.

It is the intent of City Council to accomplish this goal by applying the fundamental principles of the California Subdivision Map Act to development in the city for which no subdivision is necessary. Application of these principles would impose reasonable requirements for the dedication of right-of-way and installation of public improvements in connection with such development, ensuring that the costs associated with additional risks to the health and safety of the public and the burdens or demands upon existing infrastructure that may result from such development are borne by those causing the development. The nature and extent of the requirements imposed herein shall be limited to those dedications and improvements reasonably related and roughly proportional to the impacts created or added and/or harm posed by the development.

12.24.020 Definitions

A. "Alley" means a public or private way that is permanently reserved as a secondary means of access to abutting property.

B. "Building" means any structure used or intended for supporting or sheltering a use or occupancy.

C. "Development" means the erection, construction, enlarging, altering, repairing, improving, converting, or relocation of any building on a parcel or property.

12.24.030 Dedications - Required

A. No building permit shall be issued for development in the city, the cost of which exceeds \$50,000, until the owner of the parcel or property upon which the building is, or is proposed to be, situated shall have provided, by means of an offer of dedication or other appropriate conveyance, as approved by the City Attorney, a dedication of the following:

1. Any necessary street, highway, or alley right-of-way, if such street, highway, or alley right-of-way is shown or designated on the Street and Highway Element of the general plan of the city or upon any specific plan adopted by the City Council, as such may presently exist or as they may, from time to time, be amended, in order to properly align, curb, gutter, sidewalk or paving with the existing or planned improvements in the same block frontage, in accordance with said general or specific plans or standards; and

2. Any necessary city street that does not meet city standards, as such may presently exist or as they may, from time to time, be amended, in order to properly align, curb, gutter, sidewalk or paving with the existing or planned improvements in the same block frontage in accordance with said city standards; and

3. Easements for storm drain or other public facilities necessary to properly align said facilities with existing or planned public facilities, in conformance with the adopted general or specific plans and studies as approved by the City Council; and

4. Any other easement necessary to connect said parcel or property to an existing paved roadway; and

B. The cost of development that triggers the obligation for dedication in sections 12.24.030(A) shall be adjusted in either of the following manners:

1. Automatically on an annual basis, starting October 1, 2012, based on the one-year change (from July to July) in the 20-City Average Building Cost Index as published by the Engineering News Record from the date of the last adjustment; or

2. By City Council resolution adopting or amending a Council Policy in which an alternate methodology for automatic, annual adjustments is identified or a different trigger amount is set.

12.24.040 Installation of improvements – Required.

A. Subject to the exceptions and limitations in section 12.24.080, every person causing development in the city, the cost of which exceeds \$50,000, shall install, prior to the completion of such development, the following:

1. Sidewalks; curbs and gutters; pavement in streets, highways and alleys from the gutter or edge of travelway, if no gutters have been required, to the centerline or such portion of major streets in the same manner and to the same extent as that required for subdivisions; and

2. Any necessary drainage facilities; and

3. Any necessary street lighting, including ornamental lighting, where specific plans have been adopted that include standards of lighting requiring the installation of additional lighting units.

B. The cost of development that triggers the obligation for installation of improvements in sections 12.24.040(A) shall be adjusted in either of the following manners:

1. Automatically on an annual basis, starting October 1, 2012, based on the one-year change (from July to July) in the 20-City Average Building Cost Index as published by the Engineering News Record from the date of the last adjustment; or

2. By City Council resolution adopting or amending a Council Policy in which an alternate methodology for automatic, annual adjustments is identified or a different trigger amount is set.

12.24.050 Installation of public improvements - Standards

All public improvements required pursuant to this section shall be installed in accordance with and conform to all rules, regulations, ordinances, city standards and specifications, the circulation element of the general plan of the city, and any specific plan adopted by the city.

12.24.060 Installation of public improvements – Permits

Permits required for construction of the public improvements identified in section 12.24.040 shall be secured prior to either the issuance of the building permit or the frame or electrical inspection approval associated with the development.

12.24.070 Installation of public improvements – Prerequisite to issuance of certificates

No final inspection, completion certificate, or certificate of occupancy shall be issued for any development occurring after July 18, 1969, until the development is in complete compliance with the terms and requirements of this chapter.

12.24.080 Installation of public improvements – Exceptions and limitations of obligation

The obligation to install public improvements identified in section 12.24.040 shall be limited in nature and extent to those improvements reasonably related to and roughly proportional to the danger to the health, safety, and general welfare of the general public and users of the city streets and highways and/or the additional burden on city facilities that such development will tend to create. Additionally, the city may waive the requirement to install some or all of the public improvements if:

- A. Adequate improvements of the nature and type required already exist; and
- B. The topography is such that the installation of the improvements would be impracticable; and
- C. Installation of improvements would be hazardous to pedestrians because of grade; and
- D. The street or alley, for practical reasons, has not or cannot be readily graded to the established grade; or
- E. The City Council has, by resolution, adopted a Council Policy establishing alternative procedures for or other limitations on the requirement to install public improvements.

12.24.090 Installation of public improvements – Application for Waiver– Contents and fees

The property owner or his agent may apply to the Director of Development Services in writing on a form prescribed by the Director of Development Services for a waiver of the some or all of the requirements of CVMC 12.24.040. The application shall identify one or more of the exceptions or limitations listed in section 12.24.080 as well as the facts supporting such claim of exception or limitation. The application shall be accompanied by all fees associated with processing the request, including fees to cover the cost any investigation reasonably necessary for city staff to verify the facts. These fees are nonrefundable.

Following the filing of a complete application for waiver, which includes payment of all fees, the Director of Development Services shall cause the matter to be set for a noticed public hearing.

19.24.100 Installation of public improvements – Application for waiver – Hearing

The Director of Development Services may approve, partially approve or deny a waiver of the requirements to install improvements. A partial or full a waiver must be supported by written findings of fact establishing any one or more of the exceptions or limitations identified in section 12.24.080.

12.24.110 Installation of public improvements – Appeal of director of development services' ruling – Application and fees

In the event that the Director of Development Services denies the request for a waiver of obligation to install improvements, the property owner or his agent may file an application with the City Clerk to appeal such denial, which appeal shall be heard by the City Council. Said application must be filed within 10 days of the date on which the Director of Development Services made his ruling, be accompanied by the required appeal fee, and include a written statement describing the basis of the appeal.

Following the filing of a complete application, including all associated fees, a hearing before the City Council shall be set for the next regularly scheduled meeting, or at such time thereafter as may be designated, to consider the appeal.

12.24.120 Installation of public improvements – Appeal – Findings.

Prior to overturning, in whole or in part, the Director of Development Service's ruling, the City Council shall find either:

A. The facts as presented at the hearing before the Director of Development Services support one or more of the justifications for a waiver listed in section 12.24.080; or

B. The installation of some or all of the improvements is not reasonably related to or roughly proportional to the danger to the health, safety, and general welfare of the general public and/or the additional burden on city facilities that such development will tend to create.

12.24.130 Installation of public improvements – Deferral of requirements

A. In the event that the installation of all or any of the improvements required by CVMC 12.24.040 would, if presently installed, create a hazardous or defective condition or be impractical, or if said installation of any or all of said improvements would be incompatible with the present development of the neighborhood or be impractical or premature because of the existing condition of the surrounding property, or that it would be desirable to install said improvements as a part of the overall plan for the development of public improvements in a certain area, the property owner or his agent may apply to the City Engineer for a deferral of the requirements of this chapter, stating the grounds and reasons therefore.

B. If the City Engineer, at his discretion, feels that such grounds or exceptions are reasonable and that the requested deferral should be granted, the City Engineer may defer imposition of the requirements of this chapter on such applicant, subject to the conditions set forth herein.

1. The applicant shall execute a deferral agreement through which the applicant acknowledges his obligation to install the improvements at such time as requested by the City Engineer and agrees not to protest the formation of an assessment district or similar mechanism intended to finance the improvements.

2. The applicant for a deferral of such improvements shall pay a fee as presently designated, or as may be in the future amended, in the master fee schedule to cover investigation and processing of such requests.

3. The applicant owner shall provide the City with security equal to the estimated cost of the improvements, as approved by the city engineer, plus 10 percent of such cost. The security shall be in the form of a bond, letter of credit, cash deposit, or a lien on the subject parcel.

a. A lien shall also provide for reasonable attorney fees and costs in the event that it becomes necessary for the city to foreclose upon such lien.

b. The deferral agreement required in section 12.24.130(B)(1) shall stipulate that should said lien be extinguished by foreclosure of prior liens or otherwise, the improvements may be installed or provided by the city and the cost thereof become a lien against said property.


c. The denial of a request for a deferral of public improvements may be appealed to the city council in the same manner as provided for appeal of requests for waiver of public improvements, as set forth in CVMC 12.24.110.

II. EFFECTIVE DATE

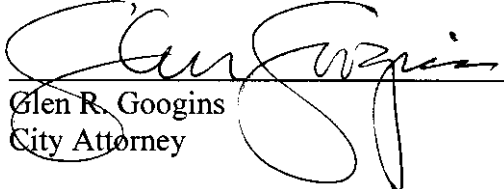
That this Ordinance shall take effect and be in full force on the thirtieth day from and after its final adoption.

Presented by

Approved as to form by



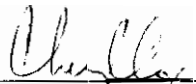
Gary Halbert, P.E., AICP
Assistant City Manager/Director of
Development Services



Glen R. Googins
City Attorney

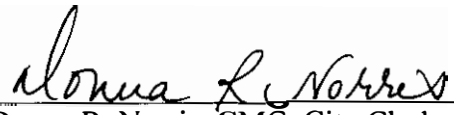
PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 14th day of February 2012, by the following vote:

AYES: Councilmembers: Aguilar, Bensoussan, Castaneda, Ramirez and Cox
NAYS: Councilmembers: None
ABSENT: Councilmembers: None



Cheryl Cox, Mayor

ATTEST:

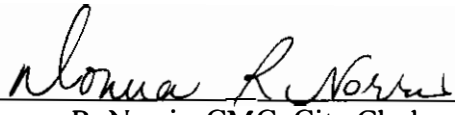


Donna R. Norris, CMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3223 had its first reading at a regular meeting held on the 24th day of January 2012 and its second reading and adoption at a regular meeting of said City Council held on the 14th day of February 2012; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

February 28, 2012
Dated



Donna R. Norris, CMC, City Clerk